

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 132 OF 2005

Suresh Bhivsen Adhangle. ...Petitioner
V/s.
Sau.Usha Suresh Adhnagle & Anr. ...Respondents

Shri Suresh M. Sabrad for Petitioner.
Shri Y.S. Shinde, APP for State.

CORAM : V.M. KANADE, J.

DATED : AUGUST 2, 2006

P.C. :-

. Heard learned Counsel for the petitioner.

2. By this petition, the petitioner is challenging the order passed by the J.M.F.C. Niphad. By the said order, the Judicial Magistrate, First Class, was pleased to direct the petitioner to pay maintenance at the rate of Rs.500/- per month to applicant no.1 and Rs.400/- to applicant no.2 and thereby enhanced the maintenance which was earlier granted. Against the said decision, the petitioner had preferred revisional application before the Additional Sessions Judge, Niphad, which was dismissed.

3. Learned Counsel for the petitioner submitted that pursuant to private settlement between the parties, the petitioner had transferred agricultural land to the extent of 20 ares to the respondents herein. In support of the said submission, he invited my attention to 7/12 extract which is annexed at Exhibit "C". It is submitted that therefore, the respondent was not entitled to get enhanced maintenance. It is further submitted that respondent no.2 who is the daughter of the petitioner is now married and is, therefore, no longer dependent on the respondent no.1 and the order of maintenance which is granted in her favour may be set aside.

4. It is not possible to accept the submission made by the learned Counsel for the petitioner. The legal position, so far as the first submission is concerned, is quite well settled. If any private settlement is arrived at between the parties, that would not prevent the wife from filing an application for enhancement of maintenance. This view has been taken in catena of cases and therefore, it is not possible to accept the

first submission made by the learned Counsel for the petitioner. So far as the second submission is concerned, liberty is granted to the petitioner to apply before the J.M.F.C. for modification of the said order in view of the subsequent events which have taken place.

5. In the result, writ petition is dismissed. The order passed by both the Courts below are confirmed. Liberty, however, is granted to apply for modification of the order passed in favour of respondent no.2.

. With these directions, writ petition is disposed of.

(V.M. Kanade, J.)